

**Internal Revenue Service
P.O. Box 2508, Room 7008
Cincinnati, OH 45201**

**Department of the Treasury
Exempt Organizations
Rulings and Agreements**

Release Number: **200926044**
Release Date: 6/26/09
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Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

(phone)

(fax)

UIL # 4945.04-04

Legend

C = University
D = College #1
E = College #2
H = Association #1
I = Association #2
J = Association #3
L = Service Area
X = the organization

Dear

We have considered your request for advance approval of your grant-making program under section 4945 (g)(1) of the Internal Revenue Code, dated January 23, 2009.

Our records indicate that X was recognized as exempt from Federal income tax under section 501(c)(3) of the Code. Our records also indicate that X was classified as a private foundation, as defined in section 509(a), effective January 1, 2009.

Your letter indicates that X will operate a grant-making program.

The purpose of X is to provide four scholarship grants a year to B; two scholarships to students attending C and two scholarships to students attending D. The amount of the scholarship award is one-half of the total annual tuition for the academic year.

X also intends to offer a total of two to four academic scholarships a year to students enrolling in E with emphasis in an associate degree in nursing (RN) or a licensed practical nursing certificate program (LPN). The amount of the scholarship award is the total annual tuition for the academic year.

X will advertise its scholarship programs at C and D through contact with C, D, H, I, J, and other local associations. X will advertise its scholarship programs at E through contact with the financial aid department of E and with high school counselors in L. 2009 will be the first year in which scholarships will be awarded. X will maintain

records showing the following information regarding its scholarships: names, addresses, purpose and amount of each scholarship, manner of selection and relationship (if any) to officers, trustees, or donors of funds to X. X will also maintain records of all information utilized to evaluate the qualifications of potential scholarship recipients.

The applicants for scholarship programs at C and D are first, second, third, and fourth year medical students who reside in L and have been accepted to medical education programs accredited by J and who plan to study at C and D. The applicant for scholarship programs at E are those who reside in L, desire to attend either an associate degree in nursing (RN) or a licensed practical nursing certificate program (LPN) program, and agree to work in L after graduation. All scholarship recipients will be required to verify satisfactory academic progress for each year in which scholarship grants are granted.

The selection of recipients will be made on an objective, non-discriminatory basis. Members of X Board of Directors, of the Grant and Scholarship Committee, or X disqualified persons (including substantial contributors, foundation managers and certain family members of such persons) are not eligible for scholarship assistance. Members of the Grant and Scholarship Committee must disclose any familial relationship with an applicant. Each applicant shall be ranked against stated selection criteria and selection of award recipients shall be based on a combination of merit and financial need. Merit shall be determined by an evaluation of applicants using the following factors:

1. academic transcripts – as a measure of academic performance and ability to succeed;
2. extra-curricular activities – as a measure of the students involvement, socialization and community services;
3. volunteer or work experience – does the student have some experience on a chosen career field?;
4. career and educational goals – Are goals clearly stated and does the student appear likely to succeed?; and
5. unusual circumstances – Are there family problems, personal or financial, which may make the student more worthy of consideration?

Each applicant will be screened using the merit categories listed above to insure a fair and objective decision-making process. Committee members will use a rating sheet to rate each applicant. Each of the criteria will be given a point score so that cumulative scores can be used to compare applicants. Depending on the purpose of the scholarship, more weight may be given to criteria judged to be greater importance.

X will pay scholarships directly to C, D, and E. The Committee will receive and review reports from C, D, and E regarding scholarship grantees annually and upon completion of each academic reporting period. However, if for any reason, a scholarship is paid to a person other than C, D, or E attended by the scholarship recipient, the Committee must receive a report on the progress of each recipient of such scholarship at least once each year. This report must include a summary of the use of the funds awarded, and the recipient's courses taken and grades received in each academic period. This report must be verified by C, D, or E. A final report is also required.

Where the reports submitted or other information (including failure to submit reports) indicate that all or any part of a scholarship grant is not being used in furtherance of its intended purpose, X is under a duty to investigate. (Such duty shall only arise where a scholarship has been paid to a person other than to C, D, or E attended by the scholarship

recipient.) While conducting the investigation, the Committee shall withhold further payments to the extent possible until any delinquent reports required under the foregoing provisions of these procedures have been submitted. If X learns that all or any part of a scholarship is not being used in furtherance of the purposes of the scholarship, X shall take all reasonable and appropriate steps to recover the scholarship funds and/or ensure restoration of the diverted funds to the purposes of the scholarship. If such a diversion occurs and the scholarship recipients has not previously diverted scholarship funds to any use not in furtherance of the purposes of the scholarship, X shall withhold any further payments to the recipient until it has received the recipient's assurance that further diversion shall not occur and shall require the recipient to take extraordinary precautions to prevent future diversions from occurring.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards

granted in accordance with such procedures will not constitute “taxable expenditures” within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards which meet the requirements of section 4945(g)(1) **of the Code. This determination only covers the grant programs described above.** Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all award distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures
Notice 437
Redacted copy of letter